

By: Ellis

S.B. No. 1440

A BILL TO BE ENTITLED

AN ACT

relating to the requirement to prepay ad valorem taxes as a prerequisite to determining certain motions or protests and the authority of an appraisal review board to determine compliance with the requirement.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 25.25(e), Tax Code, is amended to read as follows:

(e) If the chief appraiser and the property owner do not agree to the correction before the 15th day after the date the motion is filed, a party bringing a motion under Subsection (c) or (d) is entitled on request to a hearing on and a determination of the motion by the appraisal review board. A party bringing a motion under this section must describe the error or errors that the motion is seeking to correct. Not later than 15 days before the date of the hearing, the board shall deliver written notice of the date, time, and place of the hearing to the chief appraiser, the property owner, and the presiding officer of the governing body of each taxing unit in which the property is located. The chief appraiser, the property owner, and each taxing unit are entitled to present evidence and argument at the hearing and to receive written notice of the board's determination of the motion. A property owner who files the motion must comply with the payment requirements of Section 25.26 [~~42.08~~] or forfeit the right to a final determination of the motion.

SECTION 2. Chapter 25, Tax Code, is amended by adding Section 25.26 to read as follows:

Sec. 25.26. FORFEITURE OF REMEDY FOR NONPAYMENT OF TAXES.

(a) The pendency of a motion filed under Section 25.25 does not affect the delinquency date for the taxes on the property that is the subject of the motion. However, that delinquency date applies only to the amount of taxes required to be paid under Subsection (b). If the property owner complies with Subsection (b), the delinquency date for any additional amount of taxes due on the property is determined in the manner provided by Section 42.42(c) for the determination of the delinquency date for additional taxes finally determined to be due in an appeal under Chapter 42, and that additional amount is not delinquent before that date.

(b) Except as provided by Subsection (d), a property owner who files a motion under Section 25.25 must pay the amount of taxes due on the portion of the taxable value of the property that is the subject of the motion that is not in dispute before the delinquency date or the property owner forfeits the right to proceed to a final determination of the motion.

(c) A property owner who pays an amount of taxes greater than that required by Subsection (b) does not forfeit the property owner's right to a final determination of the motion by making the payment. If the property owner files a timely motion under Section 25.25, taxes paid on the property are considered paid under protest, even if paid before the motion is filed.

(d) After filing an oath of inability to pay the taxes at issue, a property owner may be excused from the requirement of

1 prepayment of tax as a prerequisite to the determination of a motion  
2 if the appraisal review board, after notice and hearing, finds that  
3 such prepayment would constitute an unreasonable restraint on the  
4 property owner's right of access to the board. On the motion of a  
5 party, the board shall determine compliance with this section in  
6 the same manner and by the same procedure as provided by Section  
7 41.4115(d) and may set such terms and conditions on any grant of  
8 relief as may be reasonably required by the circumstances.

9 SECTION 3. Section 41.411(c), Tax Code, is amended to read  
10 as follows:

11 (c) A property owner who protests as provided by this  
12 section must comply with the payment requirements of Section  
13 41.4115 ~~[42.08]~~ or the property owner forfeits the property owner's  
14 right to a final determination of the protest. ~~[The delinquency~~  
15 ~~date for purposes of Section 42.08(b) for the taxes on the property~~  
16 ~~subject to a protest under this section is postponed to the 125th~~  
17 ~~day after the date that one or more taxing units first delivered~~  
18 ~~written notice of the taxes due on the property, as determined by~~  
19 ~~the appraisal review board at a hearing under Section 41.44(c-3).]~~

20 SECTION 4. Subchapter C, Chapter 41, Tax Code, is amended by  
21 adding Section 41.4115 to read as follows:

22 Sec. 41.4115. FORFEITURE OF REMEDY FOR NONPAYMENT OF TAXES.

23 (a) The pendency of a protest under Section 41.411 does not affect  
24 the delinquency date for the taxes on the property subject to the  
25 protest. However, that delinquency date applies only to the amount  
26 of taxes required to be paid under Subsection (b) and, for purposes  
27 of Subsection (b), that delinquency date is postponed to the 125th

1 day after the date one or more taxing units first delivered written  
2 notice of the taxes due on the property, as determined by the  
3 appraisal review board at a hearing under Section 41.44(c-3). If  
4 the property owner complies with Subsection (b), the delinquency  
5 date for any additional amount of taxes due on the property is  
6 determined in the manner provided by Section 42.42(c) for the  
7 determination of the delinquency date for additional taxes finally  
8 determined to be due in an appeal under Chapter 42, and that  
9 additional amount is not delinquent before that date.

10       (b) Except as provided in Subsection (d), a property owner  
11 who files a protest under Section 41.411 must pay the amount of  
12 taxes due on the portion of the taxable value of the property  
13 subject to the protest that is not in dispute before the delinquency  
14 date or the property owner forfeits the right to proceed to a final  
15 determination of the protest.

16       (c) A property owner who pays an amount of taxes greater  
17 than that required by Subsection (b) does not forfeit the property  
18 owner's right to a final determination of the protest by making the  
19 payment. If the property owner files a timely protest under Section  
20 41.411, taxes paid on the property are considered paid under  
21 protest, even if paid before the protest is filed.

22       (d) After filing an oath of inability to pay the taxes at  
23 issue, a property owner may be excused from the requirement of  
24 prepayment of tax as a prerequisite to the determination of a  
25 protest if the appraisal review board, after notice and hearing,  
26 finds that such prepayment would constitute an unreasonable  
27 restraint on the property owner's right of access to the board. On

1 the motion of a party, the board shall hold a hearing to review and  
2 determine compliance with this section, and the reviewing board may  
3 set such terms and conditions on any grant of relief as may be  
4 reasonably required by the circumstances. If the board determines  
5 that the property owner has not substantially complied with this  
6 section, the board shall dismiss the pending protest. If the board  
7 determines that the property owner has substantially but not fully  
8 complied with this section, the board shall dismiss the pending  
9 protest unless the property owner fully complies with the board's  
10 determination within 30 days of the determination.

11         SECTION 5. The changes in law made by this Act apply only to  
12 a motion to correct an appraisal roll or a protest filed on or after  
13 the effective date of this Act. A motion to correct an appraisal  
14 roll or a protest filed before the effective date of this Act is  
15 governed by the law in effect on the date the motion or protest was  
16 filed, and the former law is continued in effect for that purpose.

17         SECTION 6. This Act takes effect immediately if it receives  
18 a vote of two-thirds of all the members elected to each house, as  
19 provided by Section 39, Article III, Texas Constitution. If this  
20 Act does not receive the vote necessary for immediate effect, this  
21 Act takes effect September 1, 2011.